

REMARKS

A. BACKGROUND

Applicant expresses appreciation to the Examiner for the time spent on June 22, 2011 with Applicant's representative in the in-person interview discussing the proposed claim amendments and prior art. As presented herein for reconsideration, the claims have been amended as proposed and the substance of the interview is included herein. Specifically, claims 1, 3, 5, 6, 10-14, 16-18, and 20-23 were pending and rejected in view of cited art.¹ Claims 1, 10, 12, and 20 are amended, and new claims 24-25 are added. Claims 1, 3, 5, 6, 10-14, 16-18, and 20-25 are now pending in view of the above amendments, of which claims 1, 12, and 20 are the independent claims.

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. In addition, Applicant requests that the Examiner carefully review any references discussed below to ensure that Applicant's understanding and discussion of the references, if any, are consistent with the Examiner's understanding.

B. PRIOR ART REJECTIONS

I. REJECTION UNDER 35 U.S.C. § 103

The Office Action rejected claims 1, 3, 5, 6, 10-14, 16-18, and 20-23 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,063,710 (*Takamoto*) in view of U.S. Patent No. 4,848,341 (*Ahmad*).² Applicant traverses the Examiner's rejection for obviousness on the

¹ Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should the need arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

² Since *Takamoto* qualifies as "prior" art, if at all, under 35 U.S.C. 102(e), Applicant reserves the right to challenge the status of any reference as qualifying "prior" art. Accordingly, any statement or comment herein to any of the references relied upon in the Office action is made merely for purposes of argument, and assumes *arguendo* that such reference or references are proper qualifying prior art.

grounds that the references – either individually or in combination – fail to teach or suggest each and every element of the rejected claims.

Applicant respectfully submits that the independent claims as presented for reconsideration are not anticipated nor made obvious by *Takamoto* either singly or in combination with *Ahmad* or any other cited reference of record.³ In particular, *Takamoto* was cited as disclosing “a suturing device comprising: a housing having a proximal and a distal end (see fig. 1); a hollow body (fig. 5); a needle actuation handle (3 + 5) . . .; a shaft (1) at least partially disposed within a portion of the housing and extending distally from [sic] the distal end of the housing; a movable handle . . .; and a needle movable within a needle lumen (see fig. 4),” (Office Action, pp. 2-3). The Office Action admits that *Takamoto* “fails to teach an opening disposed toward the distal end, a blade guard partially extending over the opening, and a stationary suture cutting blade positioned within the opening and beneath the blade guard, the stationary cutting blade having a V-shaped cutting edge,” (Office Action, p. 3).

The Office Action cited *Ahmad* as disclosing a device with a common opening, a blade guard partially extending over the opening, and a stationary suture cutting blade positioned within the opening and beneath the blade guard (fig. 3),” (Office Action, page 3). However, claims 1, 12, and 20 have been amended to recite, in part, “an opening disposed toward the distal end and into the housing” or the “stationary [elongate in claim 12] suture cutting blade positioned on the housing and extending within protruding through the opening and the hollow body [or interior space in claim 20].” The Office Action has not cited, nor has Applicant found, any portion of *Takamoto* or *Ahmad* that discloses, teaches, or suggests these limitations.

Accordingly, for at least the reasons noted, independent claims 1, 12, and 20 and the claims depending therefrom⁴ are neither anticipated nor made obvious by *Takamoto*, either singly or in combination with *Ahmad* or any other cited prior art of record. Indeed, as noted in the Interview Summary prepared by the Examiner at the interview’s conclusion, “the stationary

³ Any amendments to claims other than those which are expressly relied upon in overcoming the rejections on art have been made simply to insure consistency in claim language, to correct typographical or grammatical errors, or to correct other errors of a formal, non-substantive nature, but not to otherwise narrow the claims in scope for any reason.

⁴ Emphasis herein of the differences between the independent claims and the prior art are equally applicable to the dependent claims 3, 5, 6, 10, 11, 13, 14, 16-18, and 21-23, but this does not mean, on the other hand, that these are necessarily the only differences between the claimed invention and the prior art of record. Applicant thus does not acquiesce in any asserted rejections of the dependent claims 3, 5, 6, 10, 11, 13, 14, 16-18, and 21-23.

blade is protruding through the opening to overcome the prior art." Thus, favorable reconsideration and allowance is respectfully requested.

C. CONCLUSION

In view of the foregoing, Applicant respectfully submits that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicant specifically requests that the Examiner provide references supporting the teachings officially noticed, as well as provide the required motivation or suggestion to combine references with the other art of record.

For at least the foregoing reasons, Applicant respectfully submits that the pending claims are neither anticipated by nor made obvious by the art of record. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 28th day of June, 2011.

Respectfully submitted,

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